IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:
THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO :16823 of 2007

DATED:13.8.2007.

Between:
U.Bhuvaneswari

.....PETITIONER

AND

1.Then Director & Commissioner of School Education, Govt of A.P Hyderabad & another

.....RESPONDENTs

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO:16823 OF 2007

ORDER: (Per the Honourable Smt.Justice T.Meenakumari)

This writ petition is filed by the petitioner seeking to call for the records pertaining to the order of the tribunal, dated 9.7.2007 in O.A.5654 of 2003 and set aside the same.

The petitioner is the applicant. On the O.A.5654 of 2003 filed by the applicant seeking to set aside the order passed in R.C.No:74/D2-1/2003, dated 2.4.2004 by the 1st respondent confirming the order passed by the 2nd respondent in R.C.No:5933/D3/2001, dated 24.4.2002 on the ground that her representation seeking to consider her appointment along with the candidates who appeared and selected during D.S.C 1994 was rejected by the orders, dated 2.4.2004 and 24.4.2002. The tribunal having observed that the applicant was appointed against the vacancies hither to unnotified in 1994 but in connection with 2000 DSC and the orders of this Court cannot be interpreted to give seniority to the applicant on par with the candidates who were appointed in terms of the notification of the vacancies of DSC 1994, dismissed the O.A. Having aggrieved by the same, the present writ petition is preferred by the applicant.

Heard the learned counsel.

It is contended by the learned counsel for the applicant that the applicant has appeared for selection in response to DSC 1994 for the post of Grade II Hindi Pandit and in the said notification, only three vacancies were notified and some individuals approached the tribunal as well as this Court and the concerned matter in W.P.17557 of 1998 was disposed of by this Court on 8.4.1991 directing the respondents to consider the cases of the petitioners therein for selection to the post of Grade II Hindi Pandits in the vacancies that were available as on the date of notification viz., 28.7.1994 within a period of one month and the matter carried in S.L.P before the Apex Court was also dismissed and since the judgment of this Court has become final. It is further contended that the petitioner was

appointed on 6.11.2000 and therefore, her case shall be considered for appointment along with the candidates who appeared and were selected during D.S.C. 1994.

In support of his contention, he relied on a decision of the Apex Court reported in G.T.NANAVATI V. R.BABU ([1]) wherein it is laid down thus:

> "The view taken by the High Court that the administrative instructions cannot be enforced by the appellants and that vacancies became available after the initiation of the process of recruitment would be looking at the matter from a narrow and wrong angle. When a policy has been declared by the State as to the manner of filling up the post and that policy is declared in terms of rules and instructions issued to the public service commission from time to time and so long as these instructions are not contrary to the rules, the respondents ought to follow the same.
>
> Therefore, We have no hesitation in directing the respondents to consider the cases of the appellants for appointment to posts of the Haryana Public Service (Executive Branch). However, it is made clear that the appellants shall be fitted to the posts ranking below to those who had been selected along with the appellants at the time of recruitment made pursuant to the result declared on 19.6.1992. The appellants will be fitted in appropriate posts and they will be accorded appropriate scale of pay by giving them the benefit of increments, if any, but they will not be entitled to any monetary benefits for the period for which they have been kept out of employment.

Now, coming to the present facts and circumstances of the case on hand, it is pertinent to note that there is no dispute as to the notification of DSC 1994 and the appointment of the junior on 25.9.1995 as well as the appointment of the applicant in the year 2000 and the finality of the division bench judgment of this Court in W.P.No:17557 of 1998.

In this back ground of the matter and in view of the guidelines laid down by the Apex Court and in view of the fact that the applicant had appeared for the selection of DSC 1994, We feel it just and proper to direct the respondents to treat the appointment of the applicant as that of the 1994 batch by treating her seniority as last in the said 1994 batch. However, it is made clear that since the applicant has not worked for the said period till her appointment in the year 2000, she is not entitled to any monetary

benefit, but her service from the year 1994 shall be considered as a continuity of service for the purpose of computation of pension and other service benefits.

Subject to the above observation, this writ petition is allowed. No order as to costs.

(JUSTICE T.MEENAKUMARI)

Date:13th August, 2007

(JUSTICE G.CHANDRAIAH)

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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO:16823 of 2007

(Order delivered by the Honourable Smt.Justice T.Meena Kumari)

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13th August, 2007.

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[1] 1999 SCC-3-1999 PAGE 696